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May 20, 2003

To: Supervisor Yvonne Brathwaite Burke, Chair
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Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

MOTION TO SUPPORT AB 1395 (LOWENTHAL) AND SB 892 (MURRAY) -- PUBLIC SCHOOL RESTROOM FACILITY STANDARDS AND INSPECTION (ITEM NO. 10, AGENDA OF MAY 20, 2003)

Item No. 10 on the May 20, 2003 Agenda is a motion by Supervisor Knabe to support AB 1395 (Lowenthal), and Supervisor Antonovich's amendment to that motion to: 1) seek an amendment to AB 1395 which would establish enforcement authority for local health department agencies to provide annual routine inspections of public school restrooms and to recover inspection costs from the public schools or by specific State appropriations, and 2) support SB 892 (Murray). In addition, the Board asked my office to provide information regarding when a State mandate is not eligible for reimbursement. This amended item was continued from the meeting of May 13, 2003.

AB 1395 (Lowenthal)

AB 1395 would require the governing board of every school district to develop a Restroom Improvement and Maintenance Plan by January 1, 2005 to address the problems associated with school restroom facilities and to ensure that minimum health standards are met in every restroom facility in the school district. Development of the restroom plan is required to include participation of the governing board members, school administrators, teachers, pupils, parents or guardians, and classified school staff. The plan must address openness, cleanliness, repair, maintenance, and safety of restrooms in the district.

AB 1395 was amended on May 14, 2003 to require the governing board of a school district to report, at designated school board meetings and on a biannual basis, on the district's

progress in implementing its Restroom Facilities Improvement and Maintenance Plan, instead of including this information in the School Accountability Report Card. Because the School Accountability Report Card was established by Proposition 98, "The Classroom Instructional Improvement and Accountability Act of 1998," it would have required a 2/3 vote of the Legislature to change that provision.

AB 1395 is sponsored by the author and supported by the California Teachers Association, the California Medical Association and Californians for Justice. There is no registered opposition. It passed the Assembly Education Committee on May 7, 2003 by a vote of 8 to 3 and is awaiting a hearing in the Assembly Appropriations Committee.

SB 892 (Murray)

As amended on May 14, 2003, SB 892 requires school districts, as a condition of receipt of State apportionments, to use those funds, in part, to protect the right of every public school pupil to attend a school in which restroom facilities are available, safe and clean. The bill would require every restroom facility in each public school to be open at all times during school hours and to be regularly maintained, cleaned, fully operational, stocked with supplies, and contain the minimum number of fixtures required by existing law. The previous version of bill also would have required local health departments to develop a plan for regular inspections of school restroom facilities and authorized school pupils, parents and employees to request the health department to conduct an inspection of any school restroom.

The California State Association of Counties (CSAC) opposed SB 892 prior to the removal of the mandate that county public health agencies regularly inspect public school restrooms. CSAC noted that public health resources are currently stretched very thin and local health departments could not assume the new inspection responsibilities without compromising their ability to protect the public's health against communicable disease other public health threats. CSAC indicated that inspection and correction programs administered by school districts are a more appropriate approach to accomplishing the goals of the bill.

Senate Education Committee staff indicated in a recent Committee report that some aspects of SB 892 do not appear to be operationally feasible. For example, the requirement that every restroom facility be open, fully stocked and operational during school hours may not be possible if a plumbing problem develops that requires days to repair, or if a restroom is vandalized over a weekend it is unlikely that it would be fully operational on Monday morning.

SB 892 is sponsored by the author and it has no registered support. CSAC dropped its

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opposition following the May 14, 2003 amendment which eliminated mandated inspections by local health departments. SB 892 passed the Senate Education Committee on May 14, 2003, by a vote of 9 to 1.

State Mandate Reimbursement

Under the California State Constitution, the State is not required to reimburse a local government for the costs to implement a Legislative mandate requested by that government. Bills which contain costs over \$150,000 are routinely placed on fiscal committee suspense files to be considered in the context of the State budget outlook. Should the County request an amendment to either AB 1395 or SB 892 to authorize local health department agencies to provide inspections of public school restrooms, it is likely that the County would not succeed in obtaining State reimbursement for inspection costs.

Recommendation

The Department of Health Services (DHS) indicates that providing annual routine inspections of public school restrooms would result in annual County costs of \$252,000. As currently drafted, AB 1395 and SB 892 do not mandate local health departments to inspect public school restroom facilities. **In the absence of funding to fully reimburse inspection costs, DHS recommends that the County support AB 1395 and SB 892 as currently drafted, and we concur.**

DEJ:GK
MAL:MS:lm

c: Executive Officer, Board of Supervisors
 County Counsel
 Department of Health Services